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Human rights questions: human rights situations and reports of special rapporteurs and representatives

Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Poland, Portugal, Romania, San Marino, Slovenia, Spain, Sweden and United Kingdom of Great Britain and Northern Ireland: draft resolution

Situation of human rights in the Sudan

The General Assembly,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations that they have undertaken under the various international instruments in this field,

Mindful that the Sudan is a party to the International Covenant on Civil and Political Rights,[1] the International Covenant on Economic, Social and Cultural Rights,[1] the Convention on the Rights of the Child,[2] the African Charter on Human and Peoples' Rights[3] and the Geneva Conventions of 12 August 1949 for the protection of victims of war,[4]

Recalling its previous resolutions on the situation of human rights in the Sudan, and taking note of Commission on Human Rights resolution 2002/16 of 19 April 2002,[5]

Taking note of Security Council resolution 1372 (2001) of 28 September 2001,

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[1] Resolution 2200 A (XXI), annex.
[2] Resolution 44/25, annex.
[3] United Nations, *Treaty Series*, vol. 1520, No. 26363.
[4] Ibid., vol. 75, Nos. 970-973.
[5] See *Official Records of the Economic and Social Council, 2002, Supplement No. 3* (E/2002/23), chap. II, sect. A.

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Noting with appreciation the recent developments within the peace talks led by the Intergovernmental Authority on Development, and expressing its firm belief that human rights should become a key element in the peace talks in view of the link between a sustainable peace and respect for human rights,

1. *Welcomes*:

(a) The Machakos Protocol of 20 July 2002 and the announcement that both parties have agreed to a cessation of hostilities in all areas following the signature of the memorandum of understanding between the Government of the Sudan and the Sudan People's Liberation Army/Movement on the resumption of negotiations on peace in the Sudan;

(b) The extension of the ceasefire agreement in the Nuba Mountains, signed on 19 January 2002 by the Government of the Sudan and the Sudan People's Liberation Army/Movement, as well as the Khartoum agreement to protect civilians and civilian facilities from military attacks, also signed by them on 10 March 2002;

(c) The commitment of the Government of the Sudan to facilitate the establishment of an independent national institution on human rights;

(d) The recent visit of the Secretary-General to the Sudan;

(e) The interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan submitted to the General Assembly at its fifty-seventh session[6] and the cooperation extended by the Government of the Sudan to the Special Rapporteur during his visits to the Sudan in February, March and October 2002;

(f) The cooperation extended by the Government of the Sudan and the Sudan People's Liberation Army/Movement to other United Nations mandate holders in the field of human rights, as well as to the United Nations and other humanitarian agencies, to mitigate the effects of war on civilians, and their commitment to permit days and zones of tranquillity, and emphasizes the need to return to a principle of full, safe and unhindered access and to strengthen the support to such agencies;

(g) The commitment of the Government of the Sudan to embark on a programme of civic education in democracy and to create an inter-party liaison mechanism in order to foster democratization;

(h) The commitment of the Government of the Sudan to establish an advisory council for Christians, to appoint Christians to senior executive positions within the Ministry for Religious Affairs and to promote inter-religious dialogue;

(i) Decree 14/2002 of 26 January 2002 of the President of the Republic of the Sudan re-establishing and further empowering the Committee for the Eradication of Abduction of Women and Children, the Committee's facilitation of flights to repatriate abducted children and its intention to hold tribal conferences in Kordofan and Darfur and the support of the Government and the Sudan People's Liberation Army/Movement for the International Eminent Persons Group on slavery, abduction and forced servitude, which visited the Sudan in April and May 2002, and their

[6] A/57/326.

commitment to consider implementation of the recommendations of the Group as stated in their report of 22 May 2002;[7]

(j) The signing of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;[8]

2. *Expresses its deep concern* at:

(a) The impact of the ongoing armed conflict on the situation of human rights and its adverse effects on the civilian population, in particular women, children and internally displaced persons, and at the continuing serious violations of human rights, fundamental freedoms and international humanitarian law by all parties to the conflict;

(b) The Government of the Sudan's decision to keep in place the state of emergency until the end of 2002;

(c) The restrictions on freedom of thought, conscience, religion and belief and on freedom of association, assembly, opinion and expression;

(d) The occurrence of torture and ill-treatment of civilians, extrajudicial summary or arbitrary execution, arbitrary arrest, detention without trial and the cruellest forms of corporal punishment, in particular amputations;

(e) The forced conscription and displacement, enforced or involuntary disappearances, as well as other acts of intimidation and harassment against the population;

(f) Persistent violations of the rights of women, including discrimination against women and girls in law and in practice, as well as serious human rights abuses such as killing, rape, abduction and female genital mutilation;

(g) Persistent violations of the rights of the child, including the use of children as soldiers and combatants as well as their subjection to forced labour;

(h) The extensive use of the death penalty, in disregard of the provisions of the International Covenant on Civil and Political Rights[1] and United Nations safeguards, in particular the lack of legal representation, the use of special courts, especially in Darfur, with military personnel appointed as judges, the occurrence of group sentencing, the circumvention of normal appeal processes and the imposition of the death penalty on persons below 18 years of age at the time of the commission of their crime, which raises serious doubts regarding the validity of the legal processes;

(i) The abduction of women and children by Murahaleen groups and other militias;

(j) The numerous and repeated difficulties encountered by United Nations and humanitarian staff in carrying out their mandate in the Sudan and the conditions imposed on humanitarian organizations, in contravention of humanitarian principles, in particular the denial of access to them, which has had grave consequences for the civilian population affected by the armed conflict and has led to the withdrawal of many such organizations;

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[7] Slavery, Abduction and Forced Servitude in Sudan: Report of the International Eminent Persons Group, 22 May 2002, United States Department of State.

[8] Resolution 54/263, annex I.

(k) The forced displacement of populations throughout the Sudan, in particular in areas surrounding the oilfields;

3. *Urges* all parties to the conflict in the Sudan:

(a) To seize the prospect of peace to ensure continued progress in the fields of human rights, democratization and the rule of law, thereby creating a climate of mutual trust and confidence that will create the basis for a viable peace and facilitate reconciliation;

(b) To respect and protect human rights and fundamental freedoms, to respect fully international humanitarian law, in particular the need to ensure the protection of civilians and civilian premises, thereby facilitating the voluntary return, repatriation and reintegration of refugees and internally displaced persons to their homes, and to ensure that those responsible for violations of human rights and international humanitarian law are brought to justice;

(c) To adhere to the Machakos Protocol, to take necessary measures to facilitate the peace negotiations and to work actively towards the settlement of a just and viable peace, based on respect of human rights and the principles of democratization and the rule of law, under the auspices of the Intergovernmental Authority on Development peace process;

(d) To continue implementing the Khartoum agreement to protect civilians and civilian facilities from military attacks, and in particular urges the Government of the Sudan to cease immediately all indiscriminate aerial bombardments and attacks against the civilian population and civilian installations and the Sudan People's Liberation Army/Movement and to abstain from using civilian premises for military purposes, and from misappropriating humanitarian assistance and diverting relief supplies, including food, from their civilian recipients;

(e) To restrain from military activities as a demonstration of willingness for a peaceful solution to the long-standing conflict and to adhere to a comprehensive ceasefire as part of a just peace negotiation process;

(f) To stop the support to and use of tribal militias that commit human rights abuses;

(g) To grant full, safe and unhindered access to all international agencies and humanitarian organizations in order to facilitate by all possible means the delivery of humanitarian assistance, in conformity with international humanitarian law, to all civilians in need of protection and assistance and to continue to cooperate with the Office for the Coordination of Humanitarian Affairs of the Secretariat and Operation Lifeline Sudan to deliver such assistance;

(h) Not to use or recruit children under the age of 18 as soldiers, to continue demobilizing child soldiers, to refrain from the practice of forced conscription and to fulfil the commitments made concerning the protection of children affected by war, including cessation of the use of anti-personnel landmines, attacks on sites where there is usually a significant presence of children and the abduction and exploitation of children, as well as to ensure access to displaced and unaccompanied minors and to reunify them with their families;

4. *Calls upon* the Government of the Sudan:

(a) To comply fully with its obligations under international human rights instruments to which the Sudan is a party and to promote and protect human rights and fundamental freedoms, as well as to respect its obligations under international humanitarian law;

(b) To ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[9] to sign and ratify the Convention on the Elimination of All Forms of Discrimination against Women,[10] and to ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction;[11]

(c) To end the state of emergency now that the stated reasons for its imposition have been resolved, namely through the constitutional amendment allowing the Presidential appointment of governors, and to undertake further efforts to promote an environment conducive to a genuine process of democratization that reflects the aspirations of the people and ensures their full participation;

(d) To end impunity for human rights violations and to try perpetrators in accordance with the rule of law, as well as to strengthen the role of the Advisory Council on Human Rights to investigate all reported human rights violations, including acts of torture;

(e) To fulfil its commitment to establish an independent national institution on human rights and to create a general legal framework facilitating the establishment of organizations in the field of human rights and to further encourage and support the Advisory Council on Human Rights in enhancing the promotion of human rights in the Sudan through its various activities, including its advisory services and advocacy activities;

(f) To ensure full respect for freedom of religion and conscience and, in this regard, to undertake measures to end discrimination based on religion;

(g) To ensure full respect for the freedoms of association, assembly, opinion, thought and expression throughout the territory of the Sudan and to fully implement existing legislation, in particular the Associations and Political Parties Act;

(h) To raise the age of criminal responsibility for children in order to take into account the observations of the Committee on the Rights of the Child;

(i) To continue and reinforce its efforts to prevent and stop the abduction of women and children taking place within the framework of the conflict in southern Sudan;

(j) To make concerted efforts to restrain the activities of tribal militias, to stop financing and equipping them and to suspend the use of the government train to Bahr-el-Ghazal until peace is established;

(k) To cease the forced displacement of populations by any means, in particular in areas surrounding the oilfields, to continue its efforts to address effectively the worsening problem of internally displaced persons, including by

[9] Resolution 39/46, annex.
[10] Resolution 34/180, annex.
[11] See CD/1478.

implementing the commitments made to the representative of the Secretary-General on internally displaced persons and ensuring their access to effective protection and assistance;

(l) To liberalize the system for maintaining public order;

(m) To implement the Standard Minimum Rules for the Treatment of Prisoners;[12]

(n) To ensure that capital punishment will not be imposed for crimes other than the most serious and will not be pronounced in disregard of the obligations assumed under the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child[2] and the provisions of United Nations safeguards;

(o) To make further efforts to implement the commitment made to the Special Representative of the Secretary-General for Children and Armed Conflict not to recruit children under the age of eighteen as soldiers;

5. *Encourages*:

(a) The Government of the Sudan to continue its cooperation with the United Nations in the field of human rights through the Special Rapporteur and the Office of the United Nations High Commissioner for Human Rights and its expert in Khartoum entrusted with the task of advising the Government on the development of national capacity to promote and protect human rights;

(b) The Sudan People's Liberation Army/Movement to allow the people-to-people peace process to develop freely and unhindered and to consider it an important contribution to the peace process;

6. *Calls upon* the international community:

(a) To expand its support for activities aimed at improving respect for human rights and humanitarian law in the Sudan, in particular those of the Committee for the Eradication of Abduction of Women and Children, and to continue assisting in building up democratic and civil society structures in the Sudan;

(b) To consider how to expand the Office of the United Nations High Commissioner for Human Rights to include a monitoring role aimed at improving respect for human rights and humanitarian law in the Sudan;

7. *Decides* to continue its consideration of the situation of human rights in the Sudan at its fifty-eighth session, under the item entitled "Human rights questions", in the light of further elements provided by the Commission on Human Rights.

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[12] See *Human Rights: A Compilation of International Instruments*, volume I (First Part) (United Nations publication, Sales No. E.94.XIV.1 (Vol. I, Part 1)).